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IN THE DISTRICT COURT, FIRST JUDICIAL DISTRICT
LARAMIE COUNTY, WYOMING

<p>GREGORY SOWIN</p> <p>Plaintiff</p> <p>v.</p> <p>MENARD, INC., dba MENARDS</p> <p>Defendant</p>	<p>Case No. <u>194-968</u></p> <p>FILED</p> <p>JUN 25 2021</p> <p>DIANE SANCHEZ CLERK OF THE DISTRICT COURT.</p>
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COMPLAINT

For his claims of relief against Defendant, Plaintiff, Gregory Sowin, alleges the following:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is Gregory Sowin residing in Laramie County, Wyoming.
2. Defendant is Menard, Inc. dba Menards, with its principal office or place of business in Eau Claire County, Wisconsin.
3. Menards owns and operates a Menards store in Cheyenne, Laramie County,

Wyoming.

4. This Court has personal jurisdiction over Defendant.
5. The amount in controversy is sufficient to invoke the general subject matter jurisdiction of this Court.
6. Venue is proper in this Court because the primary facts that give rise to this Complaint occurred in the Menards store in Laramie County, Wyoming.

FACTS

7. There are various retail industry standards pertaining to the safe stocking of shelves to prevent items from falling and injuring customers. There are also shelf and rack accessories to protect against loose or poorly stocked items.
8. On August 11, 2019, Defendant Menards or its employees, acting within the scope of their employment, did not follow these standards while stocking shelves with various pipe fittings.
9. Also on August 11, 2019, Plaintiff Greg Sowin was shopping at Defendant Menards at 4355 Windmill Road in Cheyenne, Wyoming. As he was looking at fittings on a low shelf for a construction project, a large pipe fitting weighing about 7-12 pounds fell from about ten feet above and landed on Greg's back, knocking him face-first to the floor. Another fitting then fell on the first fitting, which was still on Greg's back,

breaking the entry hub off the fitting.

10. The fittings that fell were the fittings that were improperly stacked by Menards or Menards employees acting within the scope of their employment.
11. Two female Menards employees entered the aisle after the fittings fell. One of them stated, "wow, we just inventoried those parts." One of them then went to retrieve the parts, which were broken on the floor.
12. The two employees then took Greg to the front of the store to fill out an incident report. While filling out the report, another employee asked to see the surveillance footage.
13. Plaintiff has not seen this footage.
14. After filling out the incident report, Greg painfully limped back to his car and went home, hoping he had just been bruised up and would recover in a few days.
15. A few days after this incident, the manager of Menards at the time, who recognized Greg as a frequent customer, approached Greg and said he'd seen the incident report. He then apologized for what happened and told him Menards would do what it could to make things right. Greg contacted Menards, but they made no attempt to "make things right" as promised.
16. Greg Sowin has had no injuries to his back before this incident and no issues with back pain or function. In fact, Greg was a very active construction contractor and

extremely handy around the house and on roofs or scaffolding. He and his wife, Barbara, had moved from Wisconsin to Wyoming in May of 2018 so Greg could build a cabin on land they've owned on Elk Mountain for several years.

17. Unfortunately, since the August 11, 2019 incident at Menards, that is no longer the case. Greg has been in serious pain since that day forward.
18. The pipe fittings that were negligently stacked by Menards employees and subsequently fell on top of Greg have caused injuries, including disc bulging throughout the lumbar (from L2-S1) and thoracic spine, most pronounced at L5-S1 with right foraminal narrowing and right-sided sciatica.
19. Greg has undergone conservative management of his injuries, including physical therapy, medication, and various injections, with little relief of the pain and symptoms.
20. Providers at Wyoming Spine & Neurosurgery anticipate that an L5-S1 discectomy is probable.
21. Greg has been permanently injured by the negligence of Menards employees.
22. The pain and limitations caused by Greg's injuries have impacted his ability to live life as he used to, including his ability to engage in activities of daily living.
23. The effect this injury at Menards has had on Greg's life has been significant. As noted above, Greg and his wife came to Cheyenne to build a cabin in the mountains. The

exterior was supposed to have been complete in the fall of 2020. Greg can only work in short increments if he works at all due to pain he never had before this incident.

24. Greg has a constant dull and achy pain radiating from his low back through his right buttocks, and into his left buttocks when the pain is more severe and sharp.
25. Greg's pain is likely to last the rest of Greg's life, and will probably get worse over time.
26. The pain interferes with Greg's home life, his ability to help around the house, and his dream of building a cabin for him and his wife on Elk Mountain – not to mention the hiking, fishing, and camping he and his wife planned on once the cabin was built.
27. Greg is not completely non-functional, but he must push through pain and curtail activities and responsibilities to live his life.
28. Greg Sowin has sustained economic and non-economic damages as a result of Menards employees' negligence, including but not limited to, past and probable future medical expenses; past pain, suffering, and emotional distress; future pain, suffering, and emotional distress; past loss of enjoyment of life; probable future loss of enjoyment of life; and permanent disability.
29. Greg is 62 years old, with a life expectancy of another 20 years.

FIRST CLAIM FOR RELIEF:

NEGLIGENCE

30. Plaintiff incorporates the allegations above into this claim.
31. Menards and its employees have a duty to act reasonably under the circumstances, including a duty to stack products in a reasonably safe manner so they don't pose a danger to customers, or to use reasonably safe shelving and accessories so that products don't pose a danger to customers.
32. Menards or its employees acting within the scope of employment breached their duty by stacking pipe fittings in an unsafe manner, using unsafe shelving, or not using accessories to mitigate against unsafe shelving, or otherwise acting unreasonably under the circumstances.
33. The breach actually and proximately caused injuries to Plaintiff.
34. Consequently, Plaintiff has suffered economic and non-economic losses, to be specifically proven at trial.

SECOND CLAIM FOR RELIEF:

VICARIOUS LIABILITY

35. Plaintiff incorporates the allegations above into this claim.

36. Menards is legally responsible for the negligence of its employees acting within the scope of employment.
37. The Menards employees who stacked pipe fittings unsafely and not in accordance with industry standards were acting within the scope of their employment.
38. Thus, Menards is responsible for the negligence of its employees who stacked the pipe fittings.

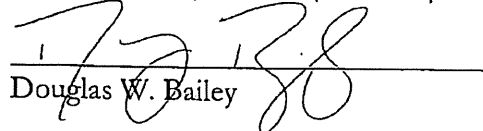
REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests this Court to grant the following:

1. Judgment against Defendants for:
 - a. special damages in an amount consistent with the allegations contained herein and to be proven at trial;
 - b. general damages in an amount consistent with the allegations contained herein and to be proven at trial; and
 - c. attorney fees, costs, and interest, in an amount to be proven at trial; and
2. Any other relief the Court deems appropriate.

DATED June 23, 2021.

BAILEY|STOCK|HARMON|COTTAM|LOPEZ LLP



Douglas W. Bailey



Notice of Service of Process

null / ALL
Transmittal Number: 23413146
Date Processed: 06/29/2021

Primary Contact: Ashley Aubart
Menard, Inc.
5101 Menard Dr
Eau Claire, WI 54703-9604

Electronic copy provided to: Andrew Akey
Meghan Olson

Entity:	Menard, Inc. Entity ID Number 0033810
Entity Served:	Menard, Inc.
Title of Action:	Gregory Sowin vs. Menard, Inc. dba Menards
Document(s) Type:	Summons/Complaint
Nature of Action:	Personal Injury
Court/Agency:	Laramie County District Court, WY
Case/Reference No:	194-968
Jurisdiction Served:	Wyoming
Date Served on CSC:	06/28/2021
Answer or Appearance Due:	20 Days
Originally Served On:	CSC
How Served:	Personal Service
Sender Information:	Douglas W. Bailey 307-638-7745

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To avoid potential delay, please do not send your response to CSC
251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com



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IN THE DISTRICT COURT FOR THE FIRST JUDICIAL DISTRICT
STATE OF WYOMING, COUNTY OF LARAMIE

GREGORY SOWIN,

Plaintiff,

vs.

MENARD, INC., dba MENARDS,

Defendant.

Case No. 194-968

SUMMONS

Menard, Inc.
c/o Corporation Service Company
1821 Logan Ave.
Cheyenne, WY 82001

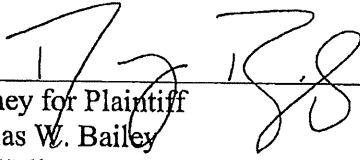
YOU ARE HEREBY SUMMONED and required to file with the Clerk and serve upon the Plaintiff's attorney an answer to the *Complaint* which is herewith served upon you, within 20 days after service of this Summons upon you, exclusive of the date of service. (If service upon you is made outside of the State of Wyoming, you are required to file and serve your answer to the *Complaint* within 30 days after service of this Summons upon you, exclusive of the date of service.) If you fail to do so, judgment by default will be taken against you for the relief demanded in the *Complaint*.

Dated this 25 day of June, 2021.

(Seal of District Court)

By: _____
Clerk

Quane Sanchez



Attorney for Plaintiff
Douglas W. Bailey
6234 Yellowstone Road
P. O. Box 1557
Cheyenne, Wyoming 82003
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STATE OF WYOMING, COUNTY OF LARAMIE

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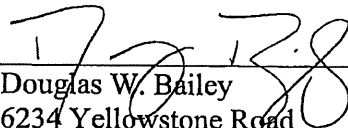
PRECIPE FOR SUMMONS

The Clerk of the above-named Court will issue a Summons for service of the **Complaint** on the following persons, viz.

Menard, Inc.
c/o Corporation Service Company
1821 Logan Ave.
Cheyenne, WY 82001

Dated this 25th day of June, 2021.

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